

ORIGINAL

EX PARTE OR LATE FILED

Dockets, Rm. 222

RECEIVED

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

OCT 29 1993

14 OCT 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN REPLY REFER TO:
7310-15/1700A1

93-61

Honorable Peter V. Domenici
United States Senate
427 Dirksen Senate Office Building
Washington, D.C. 20510-3101

Dear Senator Domenici:

This is in response to your letter dated August 5, 1993 regarding PR Docket 93-61, adopted March 11, 1993. You first requested information on this proceeding in a June 16, 1993 letter. Chairman Quello responded via letter dated July 13, 1993. You now request comments on a letter drafted by your constituent, Amtech Corporation, in response to Chairman Quello's July 13th letter. The letter drafted by your constituent finds three basic areas of concern raised by the Chairman's letter: first, that we proposed to require that some AVM licensees shift their operating frequency to avoid creating interference to other licensees; second, that we proposed, as an alternative, to provide exclusive licensing of wide-band systems for five years; and third, that we may assign spectrum for the exclusive use of two regional bell operating companies (your constituent correctly notes that Ameritech is no longer in a joint partnership with METS and, therefore, is no longer involved in this proceeding).

This proceeding remains in the Notice of Proposed Rule Making stage and, thus, we are in the process of giving full consideration to the views of your constituent as well as those of numerous other interested parties. While we recognize that certain aspects of this proceeding have generated considerable debate, the reasons for our proposals were fully discussed in the Notice and were intended to solicit a wide variety of comments on how the Commission should resolve the various and complex issues raised in this proceeding. To this end, Amtech and approximately 85 other entities filed extensive comments expressing their viewpoints on the proposals. Many of Amtech's views differ in a number of respects from those offered by the Commission for public comment. It would therefore be premature for us to now offer further comment on our proposals and Amtech's views on how we should resolve these issues. This will be accomplished at the Report and Order stage of this proceeding, which we hope to present in the near future.

I thank you for your interest in this matter.

Sincerely,

Ralph A. Haller

Ralph A. Haller
Chief, Private Radio Bureau

No. of Copies rec'd
List ABCDE

2 copies

PETE V. DOMENICI
NEW MEXICO

United States Senate
WASHINGTON, DC 20510-3101

5 August 1993

CCB
Amtech
et. spectrum
3289
88000008

COMMITTEES:
BUDGET
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
BANKING
INDIAN AFFAIRS

PV
JH

Chairman James H. Quello
Federal Communications Commission
1919 M. Street N.W.
Washington D.C. 20554

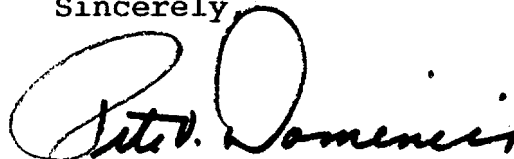
Dear Chairman Quello:

Thank you very much for your letter of 13 July 1993 which explains the FCC position on several spectrum reallocation issues raised by the Amtech Corporation. I appreciate your timely response.

I asked my constituents to review your comments and advise me of their implications for Amtech and other of the diverse users of the portion of spectrum in question. The attached draft letter was provided by Amtech and lays out several issues still of concern to that company and, presumably, to various other firms.

I would appreciate your comments on the issues raised in the draft letter at your earliest convenience and hope that the questions will be resolved prior to the completion of the rulemaking process.

Sincerely



Pete V. Domenici
United States Senator

PVD/gdv

429-7070

Dear Chairman Quello,

I am grateful for the promptness of your reply to my letter about your proposed rulemaking on automatic vehicle monitoring systems. But I am all the more troubled about the direction the Commission is heading because your response seems to confirm my concerns.

First, it confirms that you are proposing to displace many users employing "robust technology" in order to protect a very few having eggshell-like vulnerability to interference in a shared spectrum. Your proposal seems to assume that pulse ranging technology is inherently intolerant to interference. Yet, I am told that another company, Pinpoint, asserts that they have the technology to achieve pulse ranging and yet exist harmoniously in a shared spectrum. The Commission's assumption that pulse-ranging systems necessarily require exclusive spectrum seems open to question.

Second, you confirmed that you are considering providing exclusive licensing of wide-band systems for a period of five years, shifting the narrow-band users to another part of the spectrum. The distinctive aspect of such an alternative is that it stands out as a de facto grant of exclusivity since anyone who has been held out of the market for five years would, as the Commission has proposed, be required to protect the incumbent. Unlike most shared use, this alternative sets forth no obligation for mutual cooperation. As such, it offers the incumbent no incentive to improve its technology to achieve greater efficiency or robustness.

Third, and perhaps most troubling, is the manner in which you dismiss my concern that your proposal would harm a multitude of users to protect two giants, namely two regional Bell operating companies. (Actually, I am told that Ameritech has dropped out of its joint venture with MobileVison (METS is the general partner), leaving Pactel as the real RBOC beneficiary of your proposal.) Your response suggests that somehow the existence of 1,500 licenses amassed by Pactel and METS in the top 50 markets and beyond demonstrates a community of users and thus invalidates my concern. As I understand it, the Commission took the unusual step of giving these licenses five years to construct instead of the usual eight months. Yet, today Pactel has commercial systems in only a handful of cities and MobileVison (METS) has none. I am also told that Pactel has been engaged in an aggressive effort to dissuade other parties from applying for AVM licenses sharing the spectrum to which Pactel has been assigned.

Post-It™ brand fax transmittal memo 7671		# of pages >
To	Lou Sizemore	
Co.	G. Vukosich	
Dept.	Domenici	
Fax #	Phone # 229-4755	
	Fax #	

It would seem to me that the extent of operational use is a more relevant indicator of where the public interest lies. As you know, Amtech technologies alone serves one million vehicles today and is equipping 100,000 vehicles per month. All North American railroads are using their system. Similarly Amtech technologies, alone, serves over 400,000 roadway users today. Moreover, other companies offer technology that competes with Amtech's technology for the same purposes in the same band. I need not remind you again how many others engaged in innovative transportation and non-transportation applications would be displaced or disadvantaged by your proposal.

To break up an already crowded shared spectrum and devote 16 MHz to exclusive set-asides certainly leaves the Commission open to questions about a spectrum giveaway and about the Commission's dedication to deficit reduction. As you know, Congress thinks spectrum exclusivity should be auctioned.¹ As the Ranking Member of the Senate Budget Committee, I asked the Congressional Budget Office to estimate the revenue to the Treasury associated with auctioning 16 MHz of the 200 MHz Congress is about to make available for auction. You will be interested to know, I am sure, that the revenue would be, according to CBO, on the order of about _____ [to be determined by Bill Hoagland who has asked CBO for it].

I ask that you will take another serious look at your proposal and see if it isn't possible to fully retain sharing in the 902-928 MHz spectrum. Thank you again for your first response.

¹Also see Senate Appropriations Committee Report language for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Bill, 1994. (Senate Report No.103-105 at page 39).